

TC 155

. D7



RIVER AND HARBOR IMPROVEMENTS.

LETTER

OF  
SENATOR DOUGLAS

TO

GOVERNOR MATTESON OF ILLINOIS.

WASHINGTON, January 2, 1854.

SIR: I learn from the public press that you have under consideration the proposition to convene the legislature in special session. In the event such a step shall be demanded by the public voice and necessities, I desire to invite your attention to a subject of great interest to our people, which may require legislative action. I refer to the establishment of some efficient and permanent system for river and harbor improvements. Those portions of the Union most deeply interested in internal navigation naturally feel that their interests have been neglected, if not paralyzed, by an uncertain, vacillating, and partial policy. Those who reside upon the banks of the Mississippi, or on the shores of the great northern Lakes, and whose lives and property are frequently exposed to the mercy of the elements for want of harbors of refuge and means of safety, have never been able to comprehend the force of that distinction between fresh and salt water, which affirms the power and duty of Congress, under the Constitution, to provide security to navigation so far as the tide ebbs and flows, and denies the existence of the right beyond the tidal mark. Our lawyers may have read in English books that, by the common laws, all waters were deemed navigable so far as the tide extended and no further; but they should also have learned from the same authority that the law was founded upon reason, and where the reason failed the rule ceased to exist. In England, where they have neither lake nor river, nor other water which is, in fact, navigable, except where the tide rolls its briny wave, it was natural that the law should conform to the fact, and establish that as a rule which the experience of all men proved to be founded in truth and reason. But it may well be questioned whether, if the common law had originated on the shores of Lake Michigan—a vast inland sea with an average depth of six hundred feet—it would have been deemed “not navigable,” merely because the tide did not flow, and the water was fresh and well adapted to the uses and necessities of man. We therefore feel authorized to repudiate, as unreasonable and unjust, all injuries, discriminations, predicated upon salt water and tidal arguments, and to insist that if the power of Congress to protect navigation has any existence in the Constitution, it reaches every portion of this Union where the water is in fact navigable, and only ceases where the fact fails to exist. This power has been affirmed in some form and exercised to a greater or less extent by each successive Congress, and every administration since the adoption of the Federal Constitution. All acts of Congress providing for the erection of light-houses, the planting of buoys, the construction of piers, the removal of snags, the

dredging of channels, the inspection of steamboat boilers, the carrying of life boats, in short, all enactments for the security of navigation and the safety of life and property within our navigable waters, assert the existence of this power and the propriety of its exercise in some form.

The great and growing interest of navigation is too important to be overlooked or disregarded. Mere negative action will not answer. The irregular and vacillating policy, which has marked our legislation upon this subject, is ruinous. Whenever appropriations have been proposed for river and harbor improvements, and especially on the northern lakes and the western rivers, there has usually been a death struggle, and a doubtful issue. We have generally succeeded with an appropriation once in four or five years; in other words, we have, upon an average, been beaten about four times out of five in one house of Congress or the other, or both, or by the presidential veto. When we did succeed, a large portion of the appropriation was expended in providing dredging machines and snag boats and other necessary machinery and implements; and by the time the work was fairly begun, the appropriation was exhausted, and further operations suspended. Failing to procure an additional appropriation at the next session, and perhaps for two, three, or four successive sessions, the administration has construed the refusal of Congress to provide the funds for the prosecution of the works into an abandonment of the system, and has accordingly deemed it a duty to sell, at public auction, the dredging machines and snag boats, implements and materials on hand for whatever they would bring. Soon the country was again startled by the frightful accounts of wrecks and explosions, fires and snags upon the rivers, the lakes, and the seacoast. The responsibility of these appalling sacrifices of life and property were charged upon those who defeated the appropriations for the prosecution of the works. Sympathy was excited, and a concerted plan of agitation and organization formed by the interested sections and parties to bring their combined influence to bear upon Congress in favor of the re-establishment of the system on an enlarged scale, sufficiently comprehensive to embrace the local interests and influences in a majority of the congressional districts of the Union. A legislative omnibus was formed, in which all sorts of works were crowded together, good and bad, wise and foolish, national and local, all crammed into one bill, and forced through Congress by the power of an organized majority, after the fearful and exhausting struggle of a night session. The bill would receive the votes of a majority in each house, not because any one Senator or Representative approved all the items contained in it, but for the reason that humanity, as well as the stern demands of an injured and suffering constituency, required that they should make every needful sacrifice of money to diminish the terrible loss of human life by the perils of navigation. The result was a simple re-enactment of the former scenes. Machinery, implements, and materials purchased, the works recommenced—the money exhausted—subsequent appropriations withheld—and the operations suspended, without completing the improvements, or contributing materially to the safety of navigation. Indeed, it may be well questioned whether, as a general rule, the money has been wisely and economically applied, and in many cases whether the expenditure has been productive of any useful results, beyond the mere distribution of so much money among contractors, laborers, and superintendents in the favored localities; and in others, whether it has not been of positive detriment to the navigating interest.

Far be it from my purpose to call in question the integrity, science, or skill of those whose professional duty it was to devise the plan and superintend



the construction of the works. But I do insist that from the nature of their profession and their habits of life they could not be expected to possess that local knowledge—that knowledge of currents and tides—the effects of storms, floods, and ice, always different and ever changing—in each locality of this widely-extended country, which is essential in determining upon the proper site and plan for an improvement to the navigation. Without depreciating the value of science, or disregarding its precepts, I have no hesitation in saying that the opinion of an intelligent captain or pilot, who, for a long series of years, had sailed out of and into a given port in fair weather and foul, and who had carefully and daily watched the changes produced in the channel by the currents and storms, wrecks and other obstructions, would inspire me with more confidence than that of the most eminent professional gentlemen, whose knowledge and science in the line of his profession were only equalled by his profound ignorance of all those local and practical questions which ought to determine the site and plan of the proposed improvement. To me, therefore, it is no longer a matter of surprise that errors and blunders occur in the mode of constructing the works, and failures and extravagance everywhere appear in the expenditure of the money. These evils seem to be inherent in the system; at least, they have thus far proven unavoidable, and have become so palpable and notorious that it is worse than folly to close our eyes to their existence.

In addition to these facts it should be borne in mind that a large and intelligent portion of the American people, comprising, perhaps, a majority of the Democratic party, are in the habit of considering these works as constituting a general system of internal improvements by the Federal Government, and therefore in violation of the creed of the Democratic party and of the Constitution of the United States. These two-fold objections—the one denying the constitutional power and the other the expediency of appropriations from the national treasury—seem to acquire additional strength and force in proportion as the importance of the subject is enhanced, and the necessity for more numerous and extensive improvements is created by the extension of our territory, the expansion of our settlements, and the development of the resources of the country. As a friend to the navigating interest, and especially identified by all the ties of affection, gratitude, and interest with that section of the Republic which is the most deeply interested in internal navigation, I see no hope for any more favorable results from national appropriations than we have heretofore realized. If then we are to judge the system by its results, taking the past as a fair indication of what might reasonably be expected in the future, those of us who have struggled hardest to render it efficient and useful, are competent to confess that it has proven a miserable failure. It is even worse than a failure, because, while it has failed to accomplish the desired objects, it has had the effect to prevent local and private enterprise from making the improvements under State authority, by holding out the expectation that the Federal Government was about to make them.

By way of illustration, let us suppose that twenty-five years ago, when we first began to talk about the construction of railroads in this country, the Federal Government had assumed to itself jurisdiction of all works of that description to the exclusion of State authority and individual enterprise. In that event, does any one believe we would now have in the United States fourteen thousand miles of railroad completed, and fifteen thousand miles in addition under contract. Is it to be presumed, that if our own State had prostrated itself in humble supplication at the feet of the Federal Government, and, with folded arms, had waited for appropriations from the national treasury, instead

of exerting State authority, and stimulating and combining individual enterprise, we should now have in Illinois three thousand miles of railroad in process of construction? Let the history of internal improvements by the Federal Government be fairly written, and it will furnish conclusive answers to these interrogatories. For more than a quarter of a century the energies of the national government, together with all the spare funds in the treasury, were directed to the construction of a McAdamized road from Cumberland, in the State of Maryland, to Jefferson city, in the State of Missouri, without being able to complete one-third of the work. If the Government were unable to make three hundred miles of turnpike road in twenty-five years, how long would it take to construct a railroad to the Pacific ocean, and to make all the harbor and river improvements necessary to protect our widely extended and rapidly increasing commerce on a seacoast so extensive, that in forty years we have not been able to complete even the survey of one-half of it, and on a lake and river navigation more than four times as extensive as that seacoast? These questions are worthy of the serious consideration of those who think that improvements should be made for the benefit of the present generation as well as for our remote posterity; for I am not aware that the Federal Government ever completed any work of internal improvement commenced under its auspices.

The operations of the Government have not been sufficiently rapid to keep pace with the spirit of the age. The Cumberland road, when commenced, may have been well adopted to the purposes for which it was designed; but after the lapse of a quarter of a century, and before any considerable portion of it could be finished, the whole was superseded and rendered useless by the introduction of the railroad system. One reason, and perhaps the principal cause, of the slow progress of all Government improvements, consists in the fact that the appropriation for any one object is usually too small to be of material service. It may be sufficient for the commencement of the work, but before it can be completed, or even so far advanced as to withstand the effects of storms, and floods, and the elements, the appropriation is exhausted, and a large portion of the work swept away before funds can be obtained for finishing it or even protecting that which has been done. The ruinous consequences of these small appropriations are well understood and seriously deprecated, but they arise from the necessity of the case, and constitute some of the evils inseparable from the policy. All experience proves that the numberless items of a river and harbor or internal improvement bill cannot pass, each by itself, and upon its own merits, and that the friends of particular works will not allow appropriations to be made for the completion of others which are supposed to be of paramount importance, unless theirs are embraced in the same bill. Each member seems to think the work in his own district to be of the sternest necessity and highest importance, and hence feels constrained to give his own the preference, or to defeat any bill which does not include it. The result is a legislative omnibus, in which all manner of objects are crowded together indiscriminately; and as there never is and never can be money enough in the treasury to make adequate appropriations for the whole, and as the bill cannot pass unless each has something, of course the amount for each item must be reduced so low as to make it of little or no service, and thus render the whole bill almost a total loss. In this manner a large portion of our people have been kept in a state of suspense and anxiety for more than half a century with their hopes always excited and their expectations never realized.

I repeat that the policy heretofore pursued has proven worse than a failure. If we expect to provide facilities and securities for our navigating interests,



we must adopt a system commensurate with our wants—one which will be just and equal in its operations upon lake, river, and ocean wherever the water is navigable, fresh or salt, tide or no tide—a system which will not depend for its success upon the dubious and fluctuating issues of political campaigns and congressional combinations—one which will be certain, uniform, and unvarying in its results. I know of no system better calculated to accomplish these objects than that which commanded the approbation of the founders of the Republic, was successively adopted on various occasions since that period, and directly referred to in the message of the President. It is evidently the system contemplated by the framers of the Constitution when they incorporated into that instrument the clause in relation to tonnage duties by the States with the assent of Congress. The debates show that this provision was inserted for the express purpose of enabling the States to levy duties of tonnage to make harbor and other improvements for the benefit of navigation. It was objected that the power to regulate commerce having already been vested exclusively in Congress, the jurisdiction of the States over harbor and river improvements, without the consent or supervision of the Federal Government, might be so exercised as to conflict with the congressional regulations in respect to commerce. In order to avoid this objection, and at the same time reserve to the States the power of making the necessary improvements, consistent with such rules as should be prescribed by Congress for the regulation of commerce, the provision was modified and adopted in the form in which we now find it in the Constitution, to wit: "*no State shall lay duties of tonnage except by the consent of Congress.*" It is evident from the debates that the framers of the Constitution looked to tonnage duties as the source from which funds were to be derived for improvements in navigation. The only diversity of opinion among them arose upon the point, whether those duties should be levied and the works constructed by the Federal Government or under state authority. These doubts were solved by the clause quoted, providing, in effect, that while the power was reserved, to the States, it should not be exercised, except by the consent of Congress, in order that the local legislation for the improvement of navigation might not conflict with the general enactment for the regulation of commerce. Yet the first Congress, which assembled under the Constitution, commenced that series of contradictory and partial enactments which has continued to the present time, and proven the fruitful source of conflict and dissension.

The first of these acts provided that all expenses for the support of lighthouses, beacons, buoys, and public piers, should be paid out of the national treasury, on the condition that the States in which the same should be situated respectively, should cede to the United States the said works, "together with the lands and tenements thereunto belonging, and together with the jurisdiction of the same." A few months afterwards the same Congress passed an act consenting that the States of Rhode Island, Maryland, and Georgia, might levy tonnage duties for the purpose of improving certain harbors and rivers within their respective limits. This contradictory legislation upon a subject of great national importance, although commenced by the first Congress, and frequently suspended and renewed at uncertain and irregular periods, seems never to have been entirely abandoned. While appropriations from the national treasury have been partial and irregular—sometimes granted and at others withheld—stimulating hopes only to be succeeded by disappointments, tonnage duties have also been collected by the consent of Congress, at various times and for limited periods, in Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia,

Alabama, Massachusetts, Rhode Island, and perhaps other States. Indeed there has never been a time, since the Declaration of Independence, when tonnage duties have not been collected under State authority for the improvement of rivers or harbors or both. The last act giving the consent of Congress to the collection of these duties, was passed for the benefit of the port of Baltimore in 1850, and will not expire until 1861.

Thus it will be seen that the proposition to pass a general law giving the consent of Congress to the imposition of tonnage duties according to a uniform rule, and upon equal terms in all the States and territories of the Union, does not contemplate the introduction of a new principle into our legislation upon this subject. It only proposes to convert a partial and fluctuating policy into a permanent and efficient system.

If this proposition should receive the sanction of Congress, and be carried into successful operation by the States, it would withdraw river and harbor improvements from the perils of the political arena, and commit them to the fostering care of the local authorities, with a steady and unceasing source of revenue for their prosecution. The system would be plain, direct, and simple, in respect to harbor improvements. Each town and city would have charge of the improvements in its own harbor, and would be authorized to tax its own commerce to the extent necessary for its construction. The money could be applied to no other object than the improvement of the harbor; and no higher duties could be levied than were necessary for that purpose. There would seem to be no danger of the power being abused, for in addition to the restrictions, limitations, and conditions, which should be embraced in the laws conferring the consent of Congress, self-interest will furnish adequate and ample assurances and motives for the faithful execution of the trusts. If any town, whose harbor needs improvement, should fail to impose the duties and make the necessary works, such neglect would inevitably tend to drive the commerce to some rival port, which would use all the means in its power to render its harbor safe and commodious, and afford all necessary protection and facilities to navigation and trade. If, on the other hand, any place should attempt to impose higher duties than will be absolutely necessary for the construction of the requisite improvements, this line of policy, to the extent of the excess, would have the same deleterious effects upon its prosperity. The same injurious influences would result from errors and blunders in the plan of the work, or from extravagance and corruption in the expenditure of the money. Hence each locality, and every citizen and person interested therein, would have a direct and personal interest in the adoption of a wise plan, and in securing strict economy and entire fidelity in the expenditure of the money. While upon the rivers the plan of operations would not be so direct and simple as in the improvement of harbors, yet even there it is not perceived that any serious inconvenience or obstacle would arise to the success of the system. It would be necessary that the law, which shall grant the consent of Congress to the imposition of the duties, shall also give a like consent in conformity with the same provision of the Constitution, that where the river to be improved, shall form the boundary of, or be situated in, two or more States, such States may enter into compact with each other, by which they may, under their joint authority, levy the duties and improve the navigation.

In this manner Pennsylvania, Delaware, and New Jersey could enter into a compact for the improvement of the Delaware river, by which each would appoint one commissioner, and the three commissioners constitute a board, which would levy the duties, prescribe the mode of their collection, devise the plan



of the improvement, and superintend the expenditure of the money. The six States bordering on the Ohio river, in like manner, could each appoint a commissioner, and the six constitute a board for the improvement of the navigation of that river from Pittsburg to the Mississippi. The same plan could be applied to the Mississippi, by which the nine States bordering upon that stream could each appoint one commissioner, and the nine form a board for the removal of snags and other obstructions in the channel from the Falls of St. Anthony to the Gulf of Mexico. There seems to be no difficulty, therefore, in the execution of the plan where the water course lies in two or more States, or forms the boundary thereof in whole or in part; and where the river is entirely within the limits of any one State, like the Illinois or Alabama, it may be improved in such manner as the legislature may prescribe, subject only to such conditions and limitations as may be contained in the act of Congress giving its consent. All the necessities and difficulties upon this subject seem to have been foreseen and provided for in the same clause of the Constitution, wherein it is declared, in effect, that, with the consent of Congress, tonnage duties may be levied for the improvement of rivers and harbors, and that the several States may enter into compacts with each other for that purpose whenever it shall become necessary, subject only to such rules as Congress shall prescribe for the regulation of commerce.

It only remains for me to notice some of the objections which have been urged to this system. It has been said that tonnage duties are taxes upon the commerce of the country, which must be paid in the end by the consumers of the articles bearing the burden. I do not feel disposed to question the soundness of this proposition. I presume the same is true of all the duties, tolls, and charges upon all public works—whether constructed by government or individuals. The State of New York derives a revenue of more than two millions of dollars a year from her canals. Of course this is a tax upon the commerce of the country, and is borne by those who are interested in and benefitted by it. This tax is a blessing or a burden, dependent upon the fact whether it has the effect to diminish or increase the cost of transportation. If we could not have enjoyed the benefit of the canal without the payment of the tolls, and if, by its construction and the payment, the cost of transportation has been reduced to one-tenth the sum which we would have been compelled to have paid without it, who would not be willing to make a still further contribution to the security and facilities of navigation, if thereby the price of freights are to be reduced in a still greater ratio. The tolls upon our own canal are a tax upon commerce, yet we cheerfully submit to the payment for the reason that they were indispensable to the construction of a great work, which has had the effect to reduce the cost of transportation between the Lakes and the Mississippi, far below what it would have been if the canal had not been made. All the charges on the fourteen thousand miles of railroad now in operation in the different States of this Union, are just so many taxes upon commerce and travel, yet we do not repudiate the whole railroad system on that account, nor object to the payment of such reasonable charges as are necessary to defray the expenses of constructing and operating them. But it may be said that if all the railroads and canals were built with funds from the national treasury, and were then thrown open to the uses of commerce and travel free of charge, the rates of transportation would be less than they now are. It may be that the rates of transportation would be less, but would our taxes be reduced thereby? No matter who is entrusted with the construction of the works, somebody must foot the bill. If the Federal Government undertake to make railroads and



canals, and river and harbor improvements, somebody must pay the expenses. In order to meet this enlarged expenditure, it would be necessary to augment the revenue by increased taxes upon the commerce of the country. The whole volume of revenue which now fills and overflows the national treasury, with the exception of the small item resulting from the sales of public lands, is derived from a system of taxes imposed upon commerce and collected through the machinery of the custom-houses. No matter, therefore, whether these works are made by the Federal Government, or by stimulating and combining local and individual enterprise under State authority: in any event they remain a tax upon commerce to the extent of the expenditure.

That system which will insure the construction of the improvements upon the best plan and at the smallest cost will prove the least oppressive to the tax-payer and the most useful to commerce. It requires no argument to prove—for every day's experience teaches us—that public works of every description can be made at a much smaller cost by private enterprise, or by the local authorities directly interested in the improvement, than when constructed by the Federal Government. Hence, inasmuch as the expenses of constructing river and harbor improvements must, under either plan, be defrayed by a tax upon commerce in the first instance, and finally upon the whole people interested in that commerce, I am of the opinion that the burdens would be less under the system referred to in the message than by appropriations from the Federal treasury. Those who seem not to have understood the difference have attempted to excite prejudice against this plan for the improvement of navigations by comparing it to the burdens imposed upon the navigation of the Rhine, the Elb, the Oder, and other rivers running through the German States. The people residing upon those rivers did not complain that they were required to pay duties for the improvement of their navigation. Such was not the fact. No duties were imposed for any such purpose. No improvements in the navigation were ever made or contemplated by those who exacted the tolls. Taxes were extorted from the navigating interest by the petty sovereigns through whose dominions the rivers run, for the purpose of defraying the expenses of the pomp, and ceremonies, and follies of vicious and corrupt courts. The complaint was, that grievous and unnecessary burdens were imposed on navigation without expending any portion of the money for its protection and improvement. Their complaints were just. They should have protested, if they had lived under a government where the voice of the people could be heard, against the payment of any more or higher tolls than were necessary for the improvement of the navigation, and have insisted that the funds collected should be applied to that purpose and none other. In short, a plan similar to the one now proposed would have been a full and complete redress of all their grievances upon this subject.

In conclusion, I will state that my object in addressing you this communication is to invite your especial attention to so much of the President's message as relates to river and harbor improvements, with the view that when the legislature shall assemble, either in special or general session, the subject may be distinctly submitted to their consideration for such action as the great interests of commerce may demand.

I have the honor to be, very respectfully, your friend and fellow-citizen,

S. A. DOUGLAS.

JOEL A. MATTESON,

*Governor of the State of Illinois.*





LIBRARY OF CONGRESS



0 020 228 746 3